

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE
DEFIBRILLATORS PRODUCTS
LIABILITY LITIGATION

MDL No. 05-1708 (DWF/AJB)

This document applies to:

ALL ACTIONS

**ORDER DISMISSING ALL CLAIMS
OF PLAINTIFFS LISTED IN
EXHIBIT A**

This multi-district litigation (“MDL”) commenced in November 2005, when the Judicial Panel on Multidistrict Litigation consolidated certain actions and transferred them to the District of Minnesota for pre-trial proceedings against Defendants Guidant Corporation, Guidant Sales Corporation, Cardiac Pacemakers, Inc., Boston Scientific Corporation, and Guidant Puerto Rico Sales Corporation (collectively “Guidant”). These actions were brought for injuries alleged to have been caused by certain allegedly defective implantable defibrillator devices and pacemakers manufactured by Guidant.

In December 2007, the Plaintiffs’ Lead Counsel Committee (“LCC”) and Guidant entered into a Master Settlement Agreement (“MSA”) that requires, among other things, each claimant who has a filed lawsuit to submit a stipulation of dismissal with prejudice in order to qualify as a Participating Claimant.

The parties agreed upon a First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice, which outlined a procedure for stipulating to the dismissal of each case filed by, or on behalf of, an MDL plaintiff who participates in any final settlement reached in accordance with the terms of the MSA. The First Joint Multi-Plaintiff Stipulation also

requested the dismissal with prejudice of each case filed by, or on behalf of, each plaintiff who has settled in accordance with the provisions of the MSA and who has already been allocated settlement funds pursuant to either the Confidential Order Approving Allocation Report Pursuant to Section IV.C.2 of Amended Master Settlement Agreement (December 10, 2008) or the Confidential Order Approving Second Allocation Report Pursuant to Section IV.C.2 of Amended Master Settlement Agreement (January 13, 2009).

The procedure that the parties followed in creating the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice—which is also the procedure that the parties have agreed upon for the dismissal of all settled MDL cases—is as follows:

1. The parties worked together to create Exhibit A to the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice, which contains a list of the plaintiffs who have settled in accordance with the provisions of the MSA and who have been allocated settlement funds by one of the Court's first two allocation orders. The parties anticipate filing additional joint multi-plaintiff stipulations of dismissal with prejudice as the Court allocates additional settlement awards.

2. The parties requested that all claims of each plaintiff listed in Exhibit A to the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice, against all named Defendants—including but not limited to: Guidant Corporation, Guidant Sales Corporation, Cardiac Pacemakers, Inc., Boston Scientific Corporation, and Guidant Puerto Rico Sales Corporation—be dismissed in their entirety with prejudice, each party to bear its own costs.

3. The parties have served a copy of the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice and Exhibit A upon counsel of record for each individual plaintiff who is listed in Exhibit A. In addition, the parties served a copy of this First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice and Exhibit A by U.S. Mail upon each individual *pro se* plaintiff who is listed in Exhibit A.

4. The parties proposed that if counsel or a *pro se* plaintiff identified any inadvertent errors in the attached list, he or she was to file with the Court a notice of such error within fifteen (15) days of the filing of this First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice. In addition to filing with the Court, he or she must also serve a copy of such notice on the LCC and on Guidant. A Notice of Error filed on the Electronic Case Filing (“ECF”) system, will be considered served on the LCC and on Guidant pursuant to Local Rule 5.4. A notice of error filed by means other than ECF (e.g., paper filing), must be served on the LCC and on counsel for Guidant at the following addresses:

Plaintiff’s Lead Counsel Committee

Charles Zimmerman
Zimmerman Reed, PLLP
651 Nicollet Mall, Suite 501
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White Plains, NY 10605

Counsel for Guidant

Deborah A. Moeller
Shook, Hardy & Bacon L.L.P.
2555 Grand Boulevard
Kansas City, MO 64108

If counsel or a *pro se* plaintiff failed to file a notice regarding an error with fifteen (15) days of the filing of this First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice, it was considered a waiver of the error.

5. After this 15-day period has expired, the parties requested that the Court, pursuant to Federal Rule of Civil Procedure 41(a)(2), enter a global order approving the procedure set forth in the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice and dismissing each case filed by, or on behalf of, each plaintiff listed in Exhibit A. Further, the parties requested that the Court issue corresponding global orders granting each future joint multi-plaintiff stipulation of dismissal with prejudice, and approving the dismissal of each case filed by, or on behalf of, each plaintiff listed in the attachments to such future multi-plaintiff stipulations.

6. On March 16, 2009, the parties filed their First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice and Exhibit A, and served a copy of both upon counsel of record for each individual plaintiff and each individual *pro se* plaintiff who is included in Exhibit A. The Court has reviewed the parties' First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice and finds good cause exists to approve the proposed procedure and to dismiss each case filed by, or on behalf of, each plaintiff listed in Exhibit A.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The procedure for the dismissal with prejudice of settled MDL cases outlined above and in the First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice is approved. This same procedure shall be followed for all future joint stipulations of dismissal with prejudice.

2. More than fifteen days have passed since the parties filed their First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice, and the Court has received no Notices of Error concerning any plaintiff included in Exhibit A. Accordingly, Exhibit A is hereby approved and is attached to this Order.

3. Pursuant to Federal Rule of Civil Procedure 41(a)(2), all cases and claims of each plaintiff listed in Exhibit A to the parties' First Joint Multi-Plaintiff Stipulation of Dismissal With Prejudice against all named Defendants are **DISMISSED** in their entirety **WITH PREJUDICE**. Each party shall bear its own costs.

Dated: April 6, 2009

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court